



Entered on Docket
November 15, 2011

A handwritten signature in black ink, appearing to read "Linda B. Riegle", is written over a horizontal line.

Hon. Linda B. Riegle
United States Bankruptcy Judge

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Local Counsel for the Reorganized Debtors

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re

THE RHODES COMPANIES, LLC, aka
"Rhodes Homes," et al.,

Reorganized Debtors.

☒ Affects all Debtors
☐ Affects the following Debtors

Chapter 11

Case No. BK-S-09-14814-LBR
(Jointly Administered)

STIPULATION AND ORDER REGARDING
THE BRIEFING SCHEDULE FOR THE
GREENWAY PARTNERS CLAIM AND
THE SCHEDULED CLAIMS

Hearing Date: 12/5/2011
Hearing Time: 9:30 a.m. (PST)
Courtroom 1

James M. Rhodes ("Rhodes"), by and through his undersigned counsel, Fabian & Clendenin, P.C., and the above-captioned reorganized debtors (collectively, the "Reorganized Debtors"), by and through their undersigned counsel, Kolesar & Leatham and Akin Gump Strauss Hauer & Feld LLP,

1 respectfully submit this Stipulation and Order Regarding the Briefing Schedule for the Greenway
2 Partners Claim and the Scheduled Claims (as defined below) (the “Order”). Rhodes and the
3 Reorganized Debtors are collectively referred to herein as the “Parties.”

4 WHEREAS, on August 2, 2011, this Court held a hearing (the “Hearing”) regarding the
5 Reorganized Debtors’ objection to Rhodes’s proof of claim (the “Proof of Claim”) seeking, among
6 other things, \$868,849 allegedly advanced to Greenway Partners, LLC (the “Greenway Partners
7 Claim”) and continued the hearing with respect to certain Scheduled Claims unrelated to the Proof
8 of Claim. The Greenway Partners Claim and the Scheduled Claims are collectively referred to
9 herein as the “Remaining Claims”;

10 WHEREAS, the Hearing on the Remaining Claims was continued to September 27, 2011;

11 WHEREAS, on September 27, 2011, this Court heard further arguments with respect to the
12 Greenway Partners Claim and initial arguments regarding certain obligations reflected in the
13 Reorganized Debtors’ April 30, 2009 schedules of assets and liabilities—specifically, Rhodes
14 Homes Arizona’s alleged obligation to compensate Rhodes for certain services (the “Compensation
15 Claim”), Pinnacle Grading, LLC’s alleged obligation to make certain equipment rental payments to
16 Pinnacle Equipment Rental, LLC (the “Pinnacle Equipment Claim”), and Heritage Land Company’s
17 alleged obligation to repay Sedora Holdings, LLC for its payment of certain litigation expenses (the
18 “Sedora Claim” and, together with the Compensation Claim and the Pinnacle Equipment Claim, the
19 “Scheduled Claims”);

20 WHEREAS, on September 27, 2011, this Court heard arguments with respect to the
21 declaration of Christopher Stephens, filed on behalf of Rhodes (the “Declaration”);

22 WHEREAS, for the reasons set forth in the transcript, this Court sustained the Reorganized
23 Debtors’ objection as to the Pinnacle Equipment Claim and ordered that the declaration of
24 Christopher Stephens be stricken from the record;

25 WHEREAS, with respect to the Greenway Partners Claim, the Compensation Claim and the
26 Sedora Claim, this Court held that a material issue of fact remains with respect to whether or not
27 there was a course of conduct sufficient to establish the existence of a contract between the Parties;
28

1 WHEREAS, on October 13, 2011, the Parties filed a scheduling order (the "Scheduling
2 Order") stipulating that the evidentiary hearing with respect to the Greenway Partners Claim, the
3 Compensation Claim and the Sedora Claim had been scheduled for December 5, 2011 at 9:30 a.m.
4 (PST);

5 WHEREAS, the Scheduling Order further stated that the Parties would agree on a proposed
6 schedule with respect to pre-trial submissions and would present it to the Court for consideration;

7 WHEREAS, the Parties have agreed upon a schedule with respect to pre-trial submissions
8 and depositions.

9 **IT IS HEREBY ORDERED THAT,**

10 1. Rhodes shall file his opening brief in support of the Greenway Partners Claim, the
11 Compensation Claim and the Sedora Claim ("Rhodes's Opening Brief") on or before November 16,
12 2011.

13 2. The Reorganized Debtors shall file any reply brief in opposition to Rhodes's Opening Brief
14 on or before November 23, 2011.

15 3. Rhodes shall file any reply in support of Rhodes's Opening Brief on or before November 28,
16 2011.

17 4. The Parties shall exchange witness and exhibit lists on or before November 28, 2011.

18 5. The Parties shall hold depositions related to the Greenway Partners Claim, the
19 Compensation Claim and the Sedora Claim on November 30, 2011.

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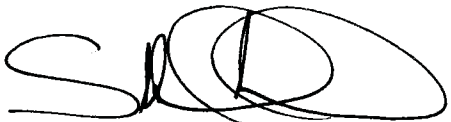
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1 **SUBMITTED BY:**

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3
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